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16 UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

Case No. 2:23-CR-164-JVS

20 Plaintiff,

UNITED STATES OF AMERICA'S
SENTENCING POSITION

21 v.

22 ADRIAN BENAVIDES-SCHORGI,
23 aka "nonamesw. . ft,"
24 aka "NONAME SWIFTER,"
aka "Mr. Talkmoney,"
aka "talkmoney,"

Hearing Date: June 24, 2024

Hearing Time: 10:00 a.m.

Defendant.

25 Plaintiff United States of America, by and through its counsel
26 of record, the United States Attorney for the Central District of
27 California and Assistant United States Attorney Jeremy K. Beecher,
28 hereby files its sentencing position for defendant Adrian Benavides-
Schorgi.

25 The government's filing is based upon the attached memorandum of
26 points and authorities, the files and records in this case, the
27 Presentence Investigation Report, and any other evidence or argument
28 that the Court may wish to consider at the time of sentencing.

The government reserves the right to file any supplemental sentencing position that may be necessary.

Dated: June 3, 2024

Respectfully submitted,

E. MARTIN ESTRADA
United States Attorney

MACK E. JENKINS
Assistant United States Attorney
Chief, Criminal Division

/s/
JEREMY K. BEECHER
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UNITED STATES OF AMERICA

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

3 Defendant is a drug dealer who sold minors fentanyl pills that
4 caused them to overdose and nearly die. Specifically, on May 24,
5 2022, defendant sold three purported "Molly," or ecstasy, pills to
6 minor victim S.S. The pills in fact contained fentanyl. As a
7 result, minor victim S.S. and two friends, minor victims E.M. and
8 J.V., overdosed and were found unconscious by a parent. They were
9 rushed to the hospital where one was unconscious, intubated, and
10 required a respirator to breathe, while another was connected to
11 oxygen and drifted in and out of consciousness before recovering
12 following intensive medical treatment. Multiple medical
13 professionals opined that multiple victims likely would have died
14 without medical intervention.

15 On February 2, 2024, defendant pled guilty to distribution of
16 fentanyl in violation of 21 U.S.C. §§ 841(a), (b)(1)(C), and admitted
17 that on May 24, 2022, he sold pills to S.S. that contained fentanyl
18 and resulted in the hospitalization and serious bodily injury of the
19 minor victims.

20 For the following reasons, the government recommends the
21 following sentence: a low-end Guidelines term of 168 months'
22 imprisonment, followed by a five-year period of supervised release,
23 and a special assessment of \$100. The government also requests the
24 Court order defendant to pay restitution in the amount to be
25 determined at a hearing no more than 90 days after sentencing. See
26 18 U.S.C. §§ 3663A(c)(1)(B), 3664(d)(5).

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1 **II. STATEMENT OF FACTS**

2 On May 24, 2022, defendant arranged to sell three "Molly," i.e.
3 Ecstasy, pills to victim S.S. (PSR ¶¶ 12, 14.) Surveillance footage
4 from J.V.'s apartment building captures the transaction in which
5 defendant drove up to the apartment building, at which point minor
6 victims S.S. and E.M. walked up to the passenger side of defendant's
7 car and engaged in a transaction with him before returning to the
8 apartment building. (Id. ¶ 21.)

9 Once inside J.V.'s apartment with the three pills sold to them
10 by defendant, the minor victims "chopped up" the pills and snorted
11 them, with each girl ingesting one pill. (Id. ¶ 14.) Neither S.S.
12 nor E.M. remembered anything that occurred after they ingested the
13 pills defendant sold them. (Id. ¶¶ 14-15.)

14 Later that evening, J.V. and S.S.'s fathers knocked on the
15 bedroom door after not hearing from the girls. (Id. ¶ 13.) When
16 they opened the door, they found all three girls passed out and
17 unconscious with labored breathing. (Id.)

18 Paramedics arrived, began treating the unconscious minors and
19 transported them to local hospitals where they were treated for
20 critical injuries. (Id.) J.V. was initially taken to St. John's
21 Medical Center in Santa Monica, where the treating physician stated
22 hers was "one of the most severe" overdoses cases she had treated,
23 and if left untreated, it would have been fatal. (Exhibit B.) J.V.
24 was transferred to Children's Hospital of Los Angeles for a higher
25 level of care in an intensive care unit. (Exhibit B.)

26 S.S.'s treating physician likewise observed that S.S. arrived at
27 UCLA Medical Center with overdose symptoms including slurring words
28

1 and being unable to produce complete sentences, and that without
2 medical care, S.S. would not have survived. (Exhibit C.)

3 E.M.'s physician similarly stated that without medical care, it
4 is unclear whether she would have survived. (Exhibit D.)

5 Defendant knew that the purported Ecstasy pills he sold the
6 girls contained a controlled substance. (PSR ¶ 12.) Although he did
7 not know for a fact that the pills contained fentanyl, he
8 acknowledged in a later interview that on occasion, he sold "Blues"
9 (common vernacular for pills containing opioids) and that the "Blues"
10 he sold could have contained fentanyl. (Id. ¶¶ 12, 24.)

11 **III. SENTENCING GUIDELINES CALCULATION**

12 USPO calculates defendant's total offense level as 35. This
13 offense level results from the following calculation: a base offense
14 level of 38 because defendant's distribution of fentanyl led to the
15 minor victims' serious bodily injuries; and a three-level reduction
16 for acceptance of responsibility. (PSR ¶¶ 25-42.) USPO further
17 calculates defendant's Criminal History to fall within Category I.
18 USPO therefore calculated defendant's Guidelines sentencing range to
19 be 168-210 months. The government concurs with USPO's Guidelines
20 calculation. For the following reasons, however, the government
21 disagrees with USPO's sentencing recommendation.

22 **IV. ARGUMENT**

23 The government believes that the 3553(a) factors, in particular
24 the nature and circumstances of the offense, the need to reflect the
25 seriousness of the crime, the need to promote respect for the law,
26 the need to provide just punishment, the need to afford adequate
27 deterrence, and the need to protect the public, warrant a low-end
28 Guidelines sentence.

1 **A. The Nature and Circumstances of the Offense Supports a**
2 **Guidelines Sentence**

3 The nature and circumstances of defendant's crime warrant a
4 Guidelines sentence for two reasons.

5 First is the ongoing fentanyl epidemic writ large. "The illegal
6 importation, manufacture, distribution, and possession and improper
7 use of controlled substances have had a substantial and detrimental
8 effect on the health and general welfare of the American people."
9 21 U.S.C. § 801(2). Fentanyl, specifically, is a highly addictive
10 synthetic opioid that is 50 times more potent than heroin and 100
11 times more potent than morphine. Fentanyl and its analogues have
12 devastated communities across the United States and are fueling the
13 ongoing overdose epidemic, which killed approximately 110,000
14 Americans in 2022. (Exhibit A at 2.) As a result, fentanyl overdose
15 is now the leading cause of death for Americans ages 18 to 45. (Id.
16 at 1.) Drug traffickers are flooding communities with fentanyl
17 disguised in the form of fake pills. (Id. at 2.) These fake pills
18 often are made to appear legitimate using pill presses and marketed
19 by drug traffickers to deceive Americans into thinking that they are
20 something other than fentanyl pills. (Id.) Defendant has
21 contributed to the nationwide devastation by trafficking in fentanyl
22 while holding it out as something else.

23 Second, defendant sold the pills to minors. Each of the girls
24 to whom he delivered pills was 15 years old at the time they took the
25 pills and overdosed. Defendant, by contrast, was 21 years old and
26 knew, or should have known, that while trafficking dangerous
27 controlled substances is wrong, delivering them to 15-year-olds is

1 simply reprehensible. By doing so, defendant jeopardized three young
2 lives and made a lifelong impact on the victims.

3 **B. History and Characteristics of Defendant**

4 Defendant's history and characteristics warrant a low-end
5 Guidelines sentence. See 18 U.S.C. § 3553(a)(1). Defendant is a
6 drug dealer who, while he often sold marijuana, also trafficked in
7 other substances including "Blues," or opioid pills, and Ecstasy.
8 (PSR ¶¶ 43-47.) The government acknowledges the mitigating
9 information set forth in the PSR, including his age and upbringing,
10 and believes a low-end Guidelines sentence adequately accounts for
11 those facts while also balancing the remaining factors the Court must
12 consider in fashioning an appropriate sentence.

13 **C. Need to Reflect Seriousness of the Offense, Promote Respect
14 for the Law, Provide Just Punishment, Afford Adequate
Deterrence, and Protect the Public**

15 A low-end Guidelines sentence will reflect the seriousness of
16 the offense, promote respect for the law, provide just punishment for
17 the offense, afford adequate deterrence, and protect the public. See
18 18 U.S.C. § 3553(a)(2).

19 There is nothing more serious than the loss of a human life.
20 Defendant's conduct nearly caused the loss of three young lives and
21 caused irreparable harm to the victims. A low-end Guidelines
22 sentence reflects the serious nature of defendant's criminal conduct
23 and provides just punishment for this most serious conduct.

24 In this case, there is also a particularly strong need for the
25 sentence to deter defendant and others from committing similar crimes
26 with potentially deadly consequences. See 18 U.S.C. § 3553(a)(2)(B)
27 (the sentence imposed must "afford adequate deterrence to criminal
28 conduct," which encompasses both specific and general deterrence).

1 Drugs like fentanyl are destroying the lives of those who live within
2 Central District communities. They pose a real, palpable danger to
3 the community, and every effort must be made to deter those who
4 choose to sell these drugs to others – and especially minors. The
5 Court must send a strong message that there will be significant
6 punishment if one's choice to sell drugs to others, and especially
7 minors, results in death or serious bodily injury. A low-end
8 Guidelines sentence will do so.

9 **D. Need to Avoid Unwarranted Disparities**

10 Finally, a low-end Guidelines sentence will minimize sentencing
11 disparities among similarly situated defendants. See 18 U.S.C. §
12 3553(a)(6). One way of avoiding such disparities is to correctly
13 calculate the Guidelines range. See United States v. Treadwell, 593
14 F.3d 990, 1011, overruled on other grounds, (9th Cir. 2010) ("Because
15 the Guidelines range was correctly calculated, the district court was
16 entitled to rely on the Guidelines range in determining that there
17 was no 'unwarranted disparity'"); Gall v. United States, 552
18 U.S. 38, 54 (2007) ("[A]voidance of unwarranted disparities was
19 clearly considered by the Sentencing Commission when setting the
20 Guidelines ranges.").

21 Here, under the correctly calculated Guidelines range, other
22 defendants "with similar records who have been found guilty of
23 similar conduct" as defendant can expect a sentence of at least 168
24 months. See 18 U.S.C. § 3553(a)(6). Therefore, the government's
25 recommended sentence avoids an unwarranted disparity with similarly
26 situated defendants.

27 **V. CONCLUSION**

28 For the reasons set forth above, the government respectfully

1 requests that defendant be sentenced as follows: (1) a low-end
2 Guidelines custodial sentence of 168 months; (2) a five-year period
3 of supervised release; and (3) a special assessment of \$200.

4 Finally, the government requests that the Court set a
5 restitution hearing no more than 90 days from the date of sentencing.
6 The minor victims are entitled to restitution as they suffered
7 physical injuries as a result of defendant's crimes. 18 U.S.C.
8 § 3663A(c)(1)(B). At present, however, certain minor victims' losses
9 are not ascertainable as they are still compiling documentation
10 relating to the out-of-pocket expenses they have incurred in
11 connection with this incident. 18 U.S.C. § 3664(d)(5). The
12 government therefore requests that the Court set a restitution
13 hearing no more than 90 days from the date of sentencing at which
14 time their losses can be determined.

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